

June 7, 2006 BZA



REQUEST ANALYSIS  
AND  
RECOMMENDATION

06AN0297

Mark Bogert

Matoaca Magisterial District  
11311 Lucks Lane

REQUEST: A Variance to use a parcel of land which has no public road frontage for dwelling purposes in an Agricultural (A) District.

RECOMMENDATION

Recommend denial of this Variance for the following reasons:

- A. There are no physical surroundings, shape or topographical conditions on this property that a particular hardship would result to the owner if the requirements of the Zoning Ordinance were carried out and a public road constructed to State standards.
- B. Staff finds there are no extraordinary circumstances or conditions applying to this property which do not apply generally to all other properties in the immediate area.

GENERAL INFORMATION

Location:

Property is known as 11311 Lucks Lane. Tax ID 743-696-1642. Access will be across Tax ID 743-696-Part of 1663 (Sheet 10).

Existing Zoning:

Agricultural (A)

Size:

1.06 acre

Existing Land Use:

Vacant

Adjacent Zoning and Land Use:

North - A; Residential  
South - R-12; Residential  
East - R-9; Residential  
West - R-12; Residential

Utilities:

Public water and sewer

Environmental Engineering:

The property has an undetermined flood plain on the property. Mansfield Creek is a Resource Protection Area (RPA) stream and is subject to a 100 foot conservation area measured from the wetlands. The wetlands have not been determined by the land owner. Environmental Engineering believes approximately fifty (50) percent or more of the property is within the 100 year flood plain and even more is within the RPA. There is also a twenty-five (25) foot setback requirement from the flood plain and RPA and also side yard setback requirements. These restrictions may be such that the buildable area of the property is extremely small and will not accommodate the applicant's plans.

Environmental Engineering recommends that a 100 year flood plain be calculated and shown on a map along with other restrictions to determine if a building foot print exists.

General Plan:

(Powhite/Route 288)

Residential  
(1.51 to 4.0 units per acre)

DISCUSSION

The applicant requests a Variance to use a parcel of land which has no public road frontage for dwelling purposes. The access to the proposed dwelling will be over a private easement from Point A to Point B, as shown on the attached map.

The applicant provides the following justification in support of this request:

I would like to construct a single family dwelling for rental property. This parcel was created in 1966. The requirement for road frontage occurred ten (10) years later in 1976.

The applicant purchased the subject property at 11311 Lucks Lane and the adjacent property located at 11301 Lucks Lane on June 30, 2005. The subject property is located 200 feet south of Lucks Lane and consists of 1.06 acres. This property was created on July 19, 1966.

The proposed access to the subject property is via a private easement across property located at 11301 Lucks Lane. The existing driveway to 11301 Lucks Lane will be used as part of the driveway to the subject property. This property at 11301 Lucks Lane is also used as rental property.

If frontage and width standards cannot be met, the parcel is eligible to apply for a Variance. Therefore, the applicant is applying for relief to the Zoning Ordinance relative to the fifty (50) foot road frontage requirement (Section 19-551).

The Board of Zoning Appeals hears requests for no public road frontage, when the subject property was recorded prior to 1980, is being subdivided and sold or given to a member of the property owner's immediate family or complies with the plat validation process. In this case, the property is eligible for the plat validation process. The Board of Zoning Appeals must determine if a public road must be constructed to State standards or a Variance granted for no public road frontage.

The Department of Environmental Engineering (EE) has indicated they are concerned with the flood plain and the Resource Protection Area (RPA) on the subject property. The Department of Environmental Engineering has tentatively determined at least fifty (50) per cent of the subject property is within the 100 year flood plain and even more is within the RPA. Also, there are setback requirements the applicant must meet in order to develop the subject property. Because of the restrictions (flood plain, RPA and setbacks) the applicant must meet, the subject property may not accommodate a dwelling. The Department of Environmental Engineering has recommended that a 100 year flood plain be calculated and shown on a map with the restrictions to determine if a large enough building foot print exists.

Staff inspected the property and observed it was unimproved.

The Chesterfield County Fire Department has requested that applicants with this type of request provide a fifteen (15) foot wide, all-weather road from the State maintained road to the dwelling capable of supporting fire equipment and/or ambulances. The road shall have at least a fourteen (14) foot clearance to overhanging objects. Conditions 2(b), 2(c) and 2(e) will cover their concerns, if approved.

As required by the Zoning Ordinance, the applicant has provided no information that would serve as a basis for granting this Variance. Staff finds no physical hardship to the property owner if this Variance were denied. Staff finds no conditions upon which this request is based which are unique to the property and do not apply generally to other properties in the area.

This request is based on financial consideration rather than physical hardship or other conditions that are not applicable to other properties in the area. Therefore, staff cannot support this request.

Staff believes that the Board should deny this request for the reasons previously noted.

However, if the Board feels that this request has merit, staff recommends that it be subject to the following conditions:

#### CONDITIONS

1. When the applicant applies for a building permit, the applicant shall provide a copy of a recorded instrument which will include:

A thirty (30) foot wide private access easement from Point A to Point B as shown on the plat attached to the staff report.
2. The private access easement shall meet the following requirements:
  - (a) The instrument shall require that no structure or fence shall be constructed to block the easement and shall require the land owner of the subject parcel to be responsible for maintenance of the access in accordance with the standards set forth below;
  - (b) A fifteen (15) foot wide roadway shall be constructed and maintained to all weather standards from Point A to Point B. Prior to issuing a Certificate of Occupancy, the Planning Department shall inspect this roadway to determine its compliance with the following standards:
  - (c) The roadway shall consist of not less than the following: compacted soil sub-base with six (6) inches of compacted 21-B crushed stone. If an asphalt based surface is to be applied, it shall be designed and constructed to Chesterfield County subdivision street requirements or an equivalent design approved by the Subdivision Team, capable of supporting the projected 75,000 pound vehicle weight. The roadway shall not be approved if it is rutted or potholed and shall be maintained to this standard.
  - (d) There shall be an additional three (3) foot clear area beyond the edge of the roadway.
  - (e) There shall be a minimum vertical clearance of fourteen (14) feet of area above the roadway.
  - (f) The roadway shall have a maximum grade of ten (10) percent with an appropriate transition at the street connection.

- (g) The minimum inside turning radius for any curve shall be twenty-seven (27) feet.
  - (h) Any cross drains shall be designed to accommodate a minimum ten (10) year storm.
- 3. The house number shall be installed on the mailbox or a pole and located at the driveway entrance of the State maintained road as well as at the driveway entrance to the property. The house numbers shall be displayed in at least four (4) inch high numbers.
  - 4. The subject property shall not be further subdivided, including any family subdivisions, unless public road frontage is provided.
  - 5. Prior to any building permits being issued the applicant shall submit the following:
    - a. A wetland delineation approval from the Corps of Engineers. (EE)
    - b. A calculated 100 year floodplain to include the field delineation. (EE)
    - c. The Resource Protection Area (RPA) will be calculated from the approved wetland delineation. (EE)
    - d. The applicant shall submit the above information and plans to the Department of Environmental Engineering for approval. Once the plans are approved by the Department of Environmental Engineering, the applicant must record the information showing the wetlands, 100 year flood plain and the Resource Protection Area (RPA) with the Record Room. (EE)

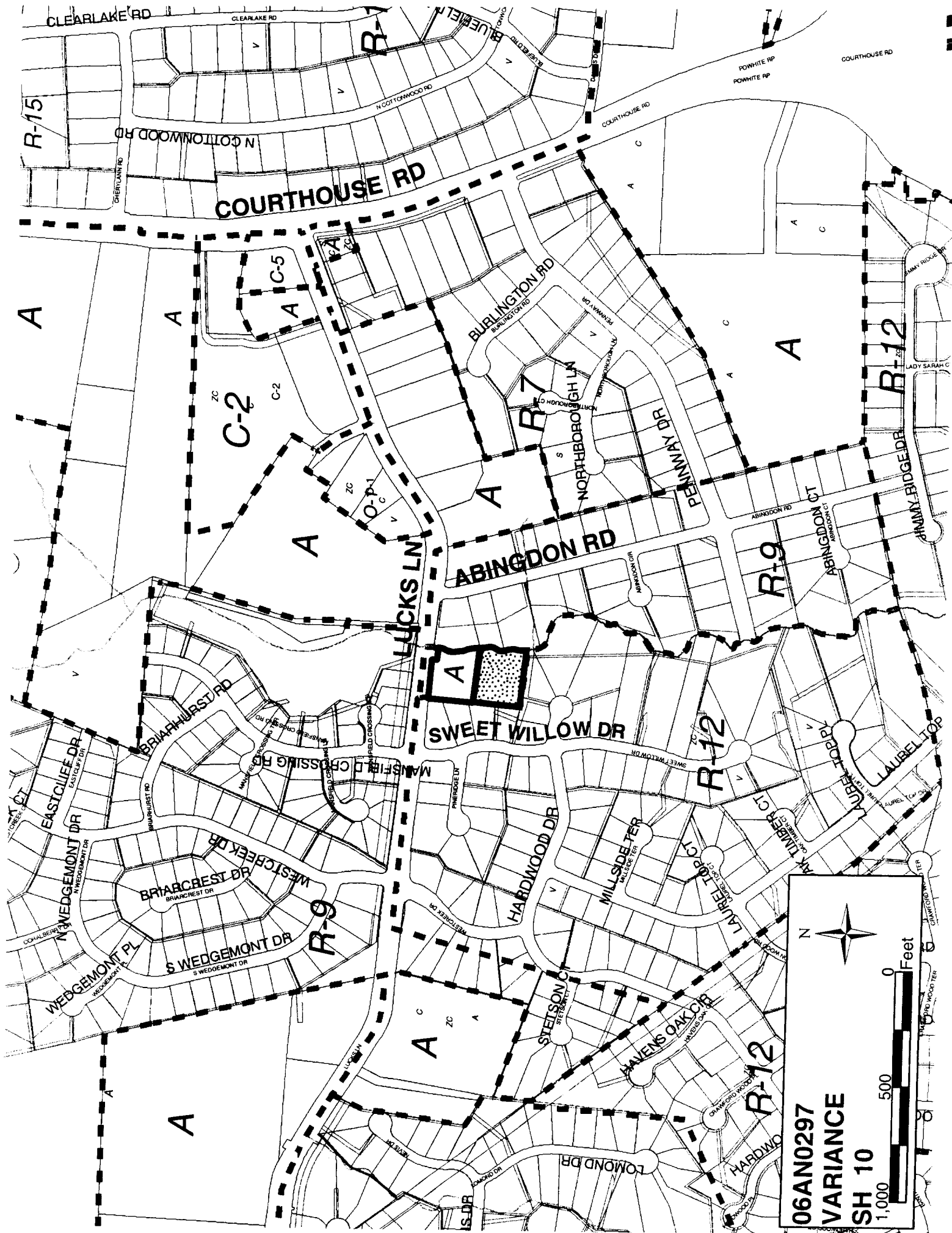
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#### CASE HISTORY

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05/17/06:

Staff contacted the applicant and advised him of Environmental Engineering concerns with the flood plain and Resource Protection Area. Staff also advised the applicant to contact Mr. Dick McElfish with Environmental Engineering to discuss those concerns.

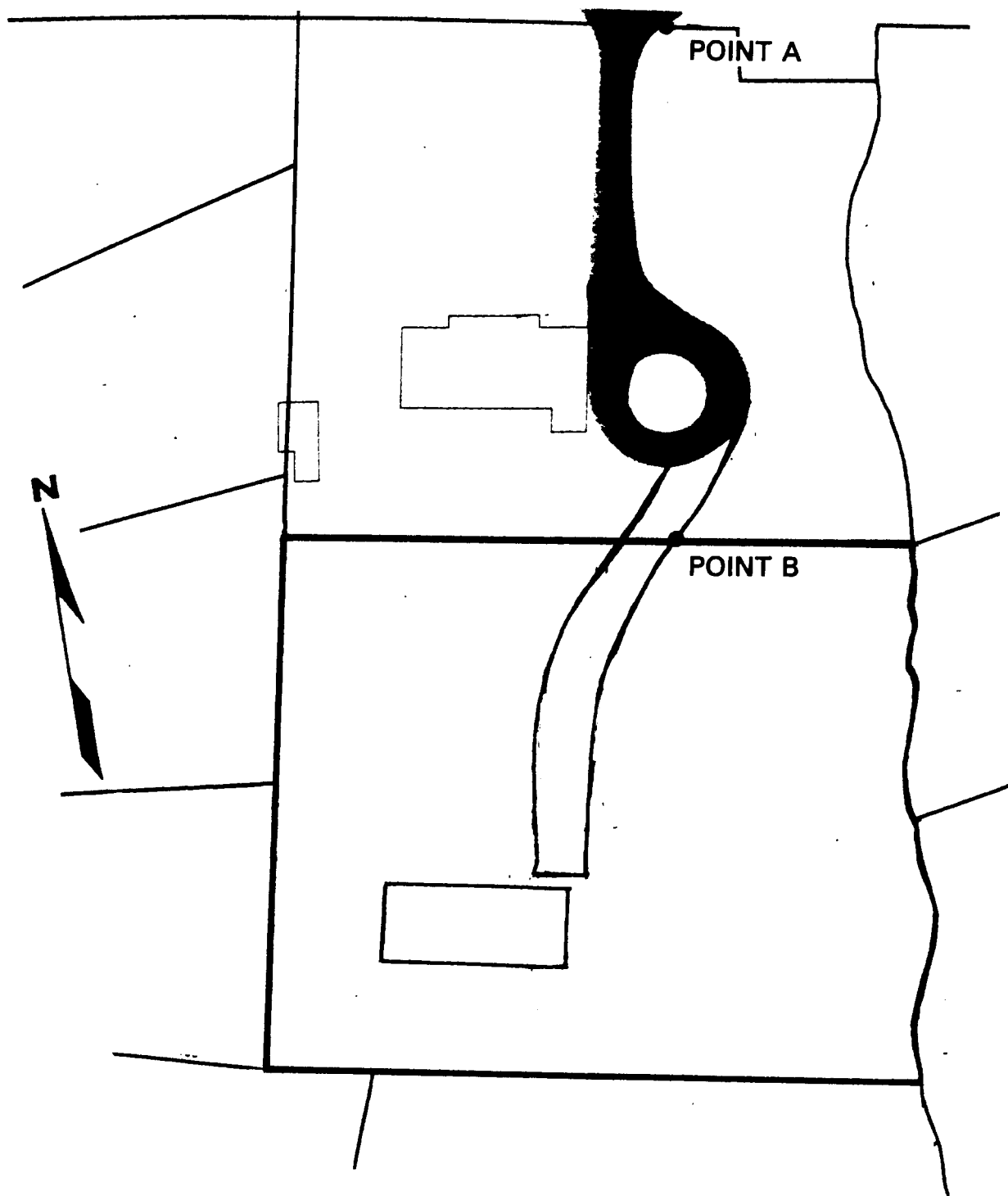


06AN0297  
VARIANCE  
SH 10  
1,000

0 500 1,000 Feet

N

# LUCKS LANE





06AN0297-2

